IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 23361 of 2005

For Approval and Signature:
HONOURABLE MR.JUSTICE A.M.KAPADIA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SONBABEN MULBHAI AAHIR & 1 - Petitioner(s)
Versus
MEHBOOBBHAI HAYATBHAI PATHAN & 2 - Respondent(s)

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Appearance :
MR YN RAVANI for Petitioner(s) : 1 - 2, 2.2.1,2.2.2
SERVED BY AFFIX.-(R) for Respondent(s) : 1,
MS MAMTA R VYAS for Respondent(s) : 1 - 2.
RULE SERVED for Respondent(s) : 2,
MR KK NAIR for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE A.M.KAPADIA

Date : 15/12/2006

ORAL JUDGMENT

1. Mr. Y.N.Ravani, learned advocate of the petitioners, upon instructions received from the petitioners, seeks leave to withdraw the petition, reserving his right to file fresh application seeking impleadment of heirs and legal representatives of Kesubhai Aahir through their guardian and next friend, as according to him, application exh. 28, which has been filed by the Advocate of the petitioners, without putting the signature of the first petitioner – Sonaben Mulbhai Aahir, has been dismissed by the MACT (Aux.), Bhavnagar vide order dated 4.6.2005.
2. Mr. K.K.Nair, learned advocate for respondent no.3 – The Oriental Insurance Company Limited has no objection if leave as prayed for is granted reserving the right of the Insurance Company to contest the said application.
3. Leave as prayed for is granted. The petition stands disposed of as it is withdrawn, with no order as to costs.
4. It would be open for the petitioners to file a fresh application before the MACT (Aux.), Bhavnagar in MACP No. 202 of 2001 seeking impleadment of heirs and legal representatives of Keshubhai Aahir through their guardians and next friend. If such an application is filed, MACT, Bhavnagar shall

decide the same after considering the objections raised by respondent no.3 – The Oriental Insurance Company Limited, strictly in accordance with law and in light of the ratio laid down by the Apex Court in the reported decision of Gujarat State Road Transport Corporation, Ahmedabad v/s. Ramanbhai Prabhatbhai and another, 1987 ACJ 561.

5. With the aforesaid observation and direction, Rule is discharged.

(A.M.Kapadia,J)

Jayanti*